

CourteMailList - From Riverside Superior Court: Governor Signed SB 40

From: CourteMailList
To: CourteMailList
Date: 4/27/2007 9:40 AM
Subject: From Riverside Superior Court: Governor Signed SB 40

Many of you may know that on March 30 the Governor signed SB 40 and the bill was chaptered March 30, and takes effect immediately.

SB 40 is the Legislature's response to the U. S. Supreme Court's January 2007 decision declaring California's determinate sentencing laws unconstitutional (Cunningham v. California, 549 U. S. ____ (2007)). After the vote, the Assembly waived house rules and immediately transmitted the bill to the Senate, where it is expected to be taken up for concurrence in Assembly amendments later this week, perhaps as early as Wednesday. No further amendments to the bill are expected. Assuming passage by the Senate, the bill could be on the Governor's desk as early as Thursday of this week. SB 40 is an urgency measure, which means it will take effect immediately upon signing by the Governor. We will notify the courts as soon as the bill is signed.

As enacted, SB 40 provides that when a felony is punishable by a triad of terms of incarceration in state prison, the choice of the appropriate term would rest within the sound discretion of the court. The bill requires the court to state the reasons for its sentence choice on the record at the time of sentencing. The bill has a two-year sunset, meaning that its provisions will be repealed on January 1, 2009, unless a later enacted statute deletes or extends that date. SB 40 also requires the Department of Corrections and Rehabilitation, commencing July 1, 2007, to post on its Internet Web site biannual updates of the number of felons admitted to state prison with at least one upper term sentence, and requires the Judicial Council to report to the Legislature on or before January 1, 2008, on the implementation of the provisions of the bill, including, but not limited to, the development of revised rules of court and any relevant information concerning implementation consequences relating to the effect of the bill.

Here is a link to the bill:

http://leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sb_40_bill_20070329_enrolled.pdf